



**Legislative Council Staff**

*Nonpartisan Services for Colorado's Legislature*

**Final Fiscal Note**

<b>Drafting Number:</b>	LLS 22-0901	<b>Date:</b>	July 12, 2022
<b>Prime Sponsors:</b>	Sen. Fenberg; Holbert Rep. Valdez A.; Van Winkle	<b>Bill Status:</b>	Signed into Law
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**Bill Topic:**                   **INTOXICATING HEMP & TETRAHYDROCANNABINOL PRODUCTS**

<b>Summary of Fiscal Impact:</b>	<input checked="" type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
	<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
	<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

This bill authorizes the Department of Public Health and Environment to promulgate rules prohibiting intoxicating tetrahydrocannabinol isomers that originate from industrial hemp or may be synthetically derived, requires the Department of Revenue to establish a task force study intoxicating hemp products and make legislative and rule recommendations, and creates an unfair or deceptive trade practice. The bill increases expenditures beginning in FY 2022-23 and ongoing, and may increase state revenue.

**Appropriation Summary:**                   For FY 2022-23, the bill requires and includes an appropriation of \$587,347 to the Department of Law.

**Fiscal Note Status:**                   The fiscal note reflects the enacted bill.

**Table 1  
State Fiscal Impacts Under SB 22-205**

		<b>Budget Year FY 2022-23</b>	<b>Out Year FY 2023-24</b>
<b>Revenue</b>			
<b>Expenditures</b>	Cash Funds	\$587,347	\$576,687
	Centrally Appropriated	\$58,250	\$58,250
	<b>Total Expenditures</b>	<b>\$645,597</b>	<b>\$634,937</b>
	<b>Total FTE</b>	<b>3.0 FTE</b>	<b>3.0 FTE</b>
<b>Transfers</b>			
<b>Other Budget Impacts</b>			

## **Summary of Legislation**

This bill makes several changes involving hemp, described in more detail below, including:

- authorizing the Department of Public Health and Environment (CDPHE) to promulgate rules prohibiting intoxicating tetrahydrocannabinol isomers that originate from industrial hemp or may be synthetically derived;
- requiring the Department of Revenue to establish a task force to study intoxicating hemp products and make legislative and rule recommendations; and
- creating an unfair or deceptive trade practice to be enforced by the Department of Law.

**Rulemaking.** The CDPHE is authorized to promulgate rules to prohibit the sale of final products that contain the chemical modification, conversion, or synthetic derivation of intoxicating tetrahydrocannabinol isomers, including delta-8, delta-9, and delta-10, or other intoxicating tetrahydrocannabinol isomers that originate from industrial hemp or may be synthetically derived.

**Task force.** The Marijuana Enforcement Division (MED) in the Department of Revenue is required to create a task force to study intoxicating hemp products and make legislative and rule recommendations. Members include representatives of several state agencies and stakeholders in industrial hemp and medical and retail marijuana. The task force must be convened by September 1, 2022, and report to the General Assembly by January 1, 2023. The report must contain the task force's legislative recommendations concerning the regulation of industrial hemp and an analysis of the effectiveness of each recommendation. The report must also include rule recommendations concerning the regulation of intoxicating hemp products.

**Consumer Protection Act.** The bill creates an unfair or deceptive trade practice related to hemp, industrial hemp, industrial hemp products, intoxicating hemp, adult use cannabis products, the plant cannabis sp., or anything derived from or produced from the plant cannabis sp., enforceable by the Department of Law.

## **Background**

Delta-9 THC occurs naturally in cannabis and is the main psychoactive ingredient in medical and retail marijuana. Industrial hemp is defined in Colorado law as cannabis that contains a delta-9 THC concentration of no more than three-tenths of one percent on a dry weight basis. Industrial hemp, because of its low delta-9 THC content, is not considered a Schedule 1 Controlled Substance federally.

Industrial hemp also contains cannabidiol (CBD) which is made into a number of products including foods, lotions, and medications that are widely available. Industrial hemp products are currently on the market, outside of regulated marijuana markets, that contain delta-8 THC, an artificially derived CBD produced from industrial hemp. The delta-8 THC is synthesized from CBD with the use of solvents and has psychoactive and intoxicating effects. The federal Food and Drug Administration has not evaluated or approved products containing delta-8 THC.

**State Revenue**

The bill may increase revenue from civil penalties for violations of the Consumer Protection Act which are deposited in the General Fund and subject to TABOR.

**State Expenditures**

The bill increases state expenditures from the Marijuana Tax Cash Fund by \$645,597 in FY 2022-23 and \$626,997 in FY 2023-24 for the Department of Law. Expenditures are shown in Table 2 and detailed below.

**Table 2  
Expenditures Under SB 22-205**

<b>Cost Components</b>	<b>FY 2022-23</b>	<b>FY 2023-24</b>
<b>Department of Law</b>		
Personal Services	\$313,747	\$313,747
Operating Expenses	\$4,050	\$4,050
Capital Outlay Costs	\$18,600	-
Vehicles	\$4,630	\$4,630
Mileage	\$1,320	\$1,320
Consultant and Laboratory Costs	\$245,000	\$245,000
Centrally Appropriated Costs <sup>1</sup>	\$58,250	\$58,250
<b>Total</b>	<b>\$645,597</b>	<b>\$626,997</b>
<b>Total FTE</b>	<b>3.0 FTE</b>	<b>3.0 FTE</b>

<sup>1</sup> Centrally appropriated costs are not included in the bill's appropriation.

**Department of Law.** By establishing violations of this bill as unfair and deceptive trade practices, the bill is expected to increase the number of complaints the Consumer Protection Section of the Department of Law receives. The section is also expected to initiate investigations. The section requires an increase of 3.0 FTE to investigate complaints and take enforcement action if indicated. The section also requires a consultant to provide expertise on intoxicating hemp and laboratory testing to determine THC content in industrial hemp products. Costs include standard operating, capital outlay, and vehicle lease and mileage and assume a July 1, 2022 start date. Staff will be hired at the salary midpoints.

**Other State Agencies.** The Department of Revenue will have an increase in workload to appoint members and convene and participate in the task force. The Department of Agriculture and the Department of Public Health and Environment will have an increase in workload to collaborate on the appointment of members to the task force and to participate in the task force.

**Centrally appropriated costs.** Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 2.

## **Local Government**

Local government representatives that participate in the task force will have an increase in workload

## **Effective Date**

The bill was signed into law by the Governor and took effect May 31, 2022.

## **State Appropriations**

For FY 2022-23 the bill requires an appropriation of \$587,347 from the Marijuana Tax Cash Fund to the Department of Law and 3.0 FTE. Of this, \$4,630 is reappropriated to the Department of Personnel and Administration for leased vehicle services.

## **State and Local Government Contacts**

Agriculture  
Law  
Revenue

Counties  
Municipalities

Information Technology  
Public Health and Environment